

FILED

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

OCT 15 2020

STATE OF NEW MEXICO  
COUNTY OF

JUDICIAL DISTRICT COURT

MITCHELL R. ELFERS  
CLERK *lmj*

Keith Henderson  
Plaintiff/Petitioner

v.

No. CR 2015 - 01925

*20cv1065 KG/CEG*

State of New Mexico  
Defendant/Respondent

*Request*

MOTION TO/FOR 10 amend a ordinance by 100 ft so I can parole to this residence.

My name is Keith Henderson

I request the Court do the following:

I am asking this court to please amend a ordinance which states I am 100 ft shy to be able to parole to my residence.

The reasons the judge should grant my request are (attach additional pages if needed):

Due to the Pandemic covid 19 my girlfriend has a house a residence and she can not move due to the added expence and lack of work hours and restrictions placed by our state Governor. Making it a hardship to her and for me, this is my grounds for relief sought.

Therefore, I respectfully ask the Court to grant this motion.

Per Rule 1-011 of the Rules of Civil Procedure, my signature here indicates that:

I have read the motion and to the best of my knowledge, information and belief, there is good ground to support it; and I am not using the motion to delay the case.

<p><u><i>Keith Henderson</i></u> Signature of party making the motion Mailing Address: <u>NW NM Detention Facility</u> <u>Coraciwig / 1700 East old Hwy 66</u> <u>Grants N.M 87020</u> Phone:</p>	<p><b><u>Certificate of Mailing</u></b> I certify that I sent a copy of this whole motion to <u>all</u> other parties in this case by mailing it to them or their attorneys at the following addresses:      </p>
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STATE OF NEW MEXICO  
COUNTY OF  
JUDICIAL DISTRICT COURT

Keith Henderson  
Plaintiff/Petitioner

v.

No. CR 2015-01925

State of New Mexico  
Defendant/Respondent

ORDER ON MOTION To amend a ordinance by 100 ft  
so I can parole to my residence.

THE COURT has considered the following motion:

\_\_\_\_\_  
This motion was filed by:

Keith Henderson

After consideration of the motion, the Court ☐ grants ☐ denies the motion.

In particular:

☒ The request to appear telephonically is granted. \_\_\_\_\_ may appear by phone, and is responsible to call the Court **ten minutes before** the hearing.

☐ The request to continue a hearing/trial is granted. The hearing/trial that had been set for \_\_\_\_\_ is rescheduled for \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

☐ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
DISTRICT COURT JUDGE

Order proposed by:  
\_\_\_\_\_  
\_\_\_\_\_

JUDICIAL DISTRICT COURT  
COUNTY OF  
STATE OF NEW MEXICO

(1) Keith Henderson,  
Petitioner/Plaintiff,

v.

(3) \_\_\_\_\_

(2) State of New Mexico,  
Respondent/Defendant.

**(4) REQUEST FOR HEARING**

1. Assigned Judge: \_\_\_\_\_
2. Type of Case: Criminal
3. Jury: \_\_\_\_\_ Non-Jury ☒
4. Dates of hearings presently set: \_\_\_\_\_ None: \_\_\_\_\_
5. Matter to be heard: request  
a  
Amendment
6. Estimated time required: what court deems fit

(5) Names, addresses and telephone numbers of all persons entitled to notice:  
(this includes you, any other person in the case who is not represented, and any attorney involved in the case)

(a) Your name and address here: <u>Keith Henderson</u> <u>1700 East Old Hwy 66</u> <u>Grants NM 87020</u>	(b)
(c) <u>Nm Probation and Parole</u> <u>4337 NM 14</u> <u>Santa Fe N.M. 87505</u>	(d)

Submitted by: Keith Henderson  
Signature  
Address: 1700 East Old Hwy 66  
Grants N.M. 87020

Keith Henderson  
Print Name  
Phone Number: \_\_\_\_\_



①

I Keith Henderson is respectfully submitting this motion so my Conts. Amend VIII will not be violated which involves the unnecessary and wanton infliction of pain to me and my girlfriend. Because conditions of confinement are part of the penalty imposed upon criminal offenders, they too fall within the ambit upon the Eighth Amendment. It is immaterial whether such conditions results from restrictions imposed for administrative, rather than punitive reasons. Procedural Due Process > Scope of Protection [HN23] The touchstone of due process is protection of the individual against arbitrary action of government. The proper forum for adjudicating a challenge to conditions of confinement is a court of law, not a prison administrative board. This is why I am presenting my case to my court due to Mitigating circumstances of present rules of parole and probation imposed. Due to the pandemic Covid 19 our way of life have changed in prison and on day to day life my family's home was inspected by probation and parole and it passed inspection the only thing that did not was the distance of my residence by a park. It was 100 ft shy. But in my defence there is a major street dividing my home and a park. Also due to the pandemic my family has gone thru some hard times from work to paying bills which caused unnecessary problems to my family so I am asking to please amend that rule in my case. I have followed all rules regulations and have been a ideal prisoner I have participated in programs offered at the penitentiary. Due to my behavior while in rehabilitation I merit a second chance. Please consider these factors so you could grant my petition.

1. Mitigating circumstances caused by the pandemic covid 19
2. Time served to date
3. Conduct in prison
4. Psychiatric history
5. Current physical and psychiatric reports
6. Work Ethics
7. Participation in educational, vocational, recreational and religious programs offered by the penitentiary.



(2)

- 8 Medical Disabilities
- 9 Participation in other Programs
- 10 Participation in therapy programs available
- 11 The desire to obtain parole
- 12 No resentment or hostility (checking to verify Mental Health)
- 13 Positive Indications of favorable attitudinal change-verified thru Mental Health.
- 14 Support and treatment of family
- 15 Attitude of my family I am returning to -
- 16 Length of time in jobs.
- 17 Job skills
- 18 Compatibility of job.
- 19 Living conditions verified thru (security)
- 20 At all times I acted in a honorable manner as a good member of the community - Can be verified thru Mental Health and past employers
- 21 My families sacrifices to get me back to them. If you do not grant my petition it would cause financial burden on my family they would have to move and with this pandemic it is hard.

I know as the parolee and the state would revoke my probation and parole if any condition is violated. So I am asking for an inquiry by this court to see I have been a model citizen ready to reintegrate to society as a good citizen so when the Board went to my home The Board Believes that he is able and willing to fulfill the obligations of a law abiding citizen this is why I am petitioning to grant my motion and let me parole to this address.

"People ex rel. Menachino v. Warden, Green Haven State prison  
In Menachino, when a man's liberty is at stake, it is of no comfort to the man to be told that the hearing at which his fate is to be determined is merely an administrative re-evaluation of the wisdom of extending the privileged (i.e. parole) of conditional freedom that had been granted to him. Where a parolee's liberty is at issue the stake is just too important to be left completely to the unchallenged discretion of the parole board.



(3)

In New Mexico a foundation for constructing a case for due process in Ex Parte Lucero.

This requirement of a hearing in all cases where personal liberty is involved because a requirement that an individual be granted the right of counsel, when the mandate of Lucero is added to the statement of U.S. Supreme Court in Powell v. Alabama. The Supreme Court declared in the case that the right to be heard would be "of little avail if it did not comprehend the right to be heard by <sup>the</sup> court and counsel. So I am respectfully asking to review my petition and grant it in consideration for all the years I served in prison and acted in a honorable way. Please let me parole to this address and amend the 100ft. I will obey all rules and ordinances and statutes may the grace of this court be upon me and my family and our petition.

Respectfully  
Submitted

Keith Henderson

Keith J Henderson  
#46106 - F2-205  
PO Box 800  
Grants, N.M.  
87020

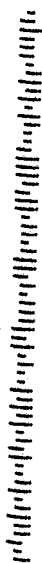
**RECEIVED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

OCT 15 2020

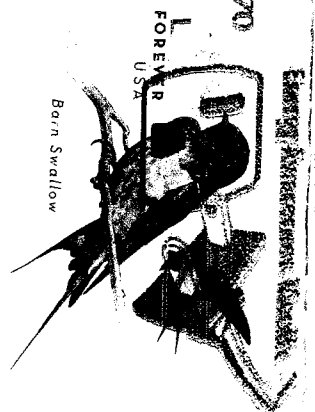
MITCHELL R. ELFERB  
CLERK

U.S. District Court  
333 Lomas Blvd N.W.  
Albuquerque, N.M. 87102

87102-227478



ALBUQUERQUE NM 870  
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Barn Swallow